

**NATIONS UNIES**  
HAUT COMMISSARIAT DES NATIONS UNIES  
AUX DROITS DE L'HOMME

**PROCEDURES SPECIALES DU  
CONSEIL DES DROITS DE L'HOMME**

**Mandates of the Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on freedom of religion or belief; and Special Rapporteur on extrajudicial, summary or arbitrary executions**

**UNITED NATIONS**  
OFFICE OF THE UNITED NATIONS  
HIGH COMMISSIONER FOR HUMAN RIGHTS

**SPECIAL PROCEDURES OF THE  
HUMAN RIGHTS COUNCIL**

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) G/SO 214 (56-23) G/SO 214 (33-27)  
SAU 4/2012

21 February 2012

Excellency,

We have the honour to address you in our capacities as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on freedom of religion or belief; and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 15/18, 16/4, 14/11 and 17/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received concerning reports that Mr. **Hamza Kashgari** may be sentenced to death for comments made on the social networking website, Twitter. Mr. Kashgari is a journalist for *Al-Belad* (The Country), a Saudi Arabian newspaper owned by the Government, and a blogger.

According to the information received:

On 9 February 2012, Mr. Kashgari was arrested by two security officials in civilian clothes at Kuala Lumpur International Airport, Malaysia, following the issue of an arrest warrant by the Saudi Arabian authorities. Prior to his arrest, Mr. Kashgari had reportedly fled Saudi Arabia after accusations of apostasy were made by prominent clerics in relation to a post he had made on Twitter concerning the Prophet Mohammed. At the time of his arrest, Mr. Kashgari was travelling to another country. On 12 February 2012, Mr. Kashgari was allegedly deported from Malaysia to Saudi Arabia. Since arriving in Saudi Arabia, Mr. Kashgari has

remained in detention in a building belonging to the Ministry of the Interior in Riyadh.

According to the information received, Mr. Kashgari has publicly repented for the statements he made on Twitter and declared that he is a Muslim. However, he allegedly remains at serious risk of being charged for blasphemy and, as a consequence, may receive a death sentence.

Concern is expressed that Mr. Hamza Kashgari may receive a death sentence because of his legitimate exercise of his right to freedom of expression. Serious concern is expressed for Mr. Kashgari's physical and psychological integrity.

While we do not wish to prejudge the accuracy of these allegations, we wish to draw your Excellency's Government's attention to the relevant international norms and standards relevant to the present case.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Hamza Kashgari is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee his right not to be deprived arbitrarily of his liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR).

We would like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the UDHR which provides that "[e]veryone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

We would also like to call upon your Excellency's Government to ensure the right of freedom of religion or belief in accordance with Article 18 of the UDHR. Art. 1 (1) of 1981 Declaration of the General Assembly provides that "Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching." Furthermore, the General Assembly, in its resolution 64/164, urges States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief.

While we believe that no individual should be prosecuted for exercising his legitimate right to freedom of expression or opinion and his right to freedom of religion

or belief, we wish to stress that under international standards, the death penalty, although not prohibited, is to be regarded as an extreme exception to the fundamental right to life. As such, it must be interpreted in the most restrictive manner and can be imposed only for the most serious crimes. In this regard, the Safeguards guaranteeing protection of the rights of those facing the death penalty adopted by Economic and Social Council resolution 1984/50 (25 May 1984) "serve as criteria for ascertaining whether an execution is of a summary or arbitrary nature" (E/CN.4/1985/17, para. 24). Para. 1 of the aforementioned instrument stipulates that "[i]n countries which have not abolished the death penalty, capital punishment may be imposed only for the most serious crimes, it being understood that their scope should not go beyond intentional crimes with lethal or other extremely grave consequences." This also coincides with the interpretation made by all of the principal United Nations bodies charged with interpreting the most serious crimes provision which held that a death sentence can only be imposed in cases where it can be shown that there was an intention to kill resulting in the loss of life (A/HRC/4/20, para. 53).

In light of the above allegations, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Kashgari are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of Mr. Hamza Kashgari in compliance with the above international instruments.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the summary of the case accurate?
2. Please provide details of why an arrest warrant was reportedly issued against Mr. Kashgari by the Saudi Arabian authorities, and how his alleged arrest and sentence are compatible with the aforementioned international norms and standards, including the right to freedom of opinion and expression.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

El Hadji Malick Sow  
Chair-Rapporteur of the Working Group on Arbitrary Detention

Frank La Rue  
Special Rapporteur on the promotion and protection of the right to freedom of  
opinion and expression

Heiner Bielefeldt  
Special Rapporteur on freedom of religion or belief

Christof Heyns  
Special Rapporteur on extrajudicial, summary or arbitrary executions